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CHAPTER II: ATTORNEY GENERAL

PART 400
SOLICITATION FOR CHARITY ACT

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AUTHORITY: Implementing and authorized by the Solicitation for Charity Act [225 ILCS 460].

SOURCE: Adopted and effective November 5, 1975; amended at 2 Ill. Reg. 37, p. 185, effective

September 30, 1978; amended at 6 Ill. Reg. 9616, effective August 1, 1982; codified at 7 Ill. Reg. 879; amended at 24 Ill. Reg. 14684, effective September 21, 2000.

Section 400.10 General

The Charitable Trusts Bureau of the Attorney General's Office (hereafter Bureau) will maintain a file of all charitable organizations, professional fund raisers, professional fund raising consultants and professional solicitors registered under the Illinois Solicitation for Charity Act at its Chicago office.

(Source: Amended at 24 Ill. Reg. 14684, effective September 21, 2000)

Section 400.20 Definitions

The words used in these Rules are used with the same meaning assigned to them by statute unless clarified below.

"Charitable purposes" means any charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose and includes the conduct described in Section 480.20(e) of Charitable Trust Act (14 Ill. Adm. Code 480).

"Contributions" means the gross amount of money raised and not merely the portion which after expenses is devoted to the charity.

(Source: Amended at 2 Ill. Reg. 37, p. 185, effective September 30, 1978)

Section 400.30 Registration

a) Charitable Organization

- 1) Any charitable organization which solicits in Illinois must first register with the Attorney General unless it is exempt under the provisions of Section 3(b) of the Act.
- 2) To register, a charitable organization must file a completed registration statement in the forms set forth in Appendix A, Illustrations A and B of this Part, all appropriate attachments, including a schedule of assets and investments, and all required statutory fees. All registrations must be accompanied by a copy of the instrument under which the property is administered (for example, trust documents, articles of incorporation, constitution, by-laws) and a financial statement. If the organization employs a professional fund raiser, a copy of its contract with the professional fund raiser must accompany the registration statement.

- 3) If the organization has been in operation prior to registering, it must file, in addition to its registration statement, financial statements for each of the past three years and executed copies of annual reports or returns filed with the Internal Revenue Service for each of the past three years, must pay all filing fees and all late fees as provided by Sections 2 and 4 of the Act, and is subject to accounting for all past years of operation prior to registration.
- 4) When a registration is canceled, to return to compliance, a re-registration must be made. Re-registration requires the submission of all of the above registration documents as applicable, including the re-registration penalty fees as provided by Section 2 of the Act.
- 5) Registration by an organization under Section 2 of the Act may upon request also satisfy the organization's registration requirements under the Charitable Trust Act [760 ILCS 55/5].
- 6) The Attorney General may by pre-approval accept registration forms used by other states which contain the information required in Appendix A, Illustration A.

b) Professional Fund Raiser

- 1) No professional fund raiser may be employed by a charitable organization in Illinois without prior registration with the Attorney General.
- 2) To register, a professional fund raiser must file a completed registration statement in the forms set forth in Appendix B, Illustrations A and B of this Part, all required statutory fees, copies of all Illinois charitable fundraising contracts and a professional fund raiser's bond when a bond is required, as described in subsection (b)(3).
- 3) If the applicant is a professional fund raiser that will control or possess charitable funds, a bond in the amount of \$10,000, expiring upon the next June 30, issued with the professional fund raiser as a principal and a corporate surety licensed to do business in Illinois as surety, must accompany the registration. The bond must be in the form provided by the Bureau as set forth in Appendix B, Illustration C of this Part.

c) Professional Solicitor

- 1) No professional solicitor may solicit in Illinois without prior registration with the Attorney General. No person may register as a professional solicitor unless he is employed by a registered professional fund raiser.

- 2) To register, a professional solicitor must file a completed registration statement in the form set forth in Appendix C, Illustration A of this Part.
- d) Professional Fundraising Consultant
 - 1) No person or entity may act as a professional fundraising consultant without prior registration with the Attorney General.
 - 2) To register, a professional fundraising consultant must file a completed registration statement in the form set forth in Appendix D, Illustration A of this Part, copies of all Illinois charitable fundraising consultant contracts and an affidavit stating that the professional fundraising consultant has not or will not at any time have custody or control of contributions.
- e) A registrant shall notify the Attorney General of any changes in registration information within ten days after the change.

(Source: Amended at 24 Ill. Reg. 14684, effective September 21, 2000)

Section 400.40 Religious Exemption

- a) Religious organizations are subject to the Act and must register under the Act. If the Attorney General has issued a religious exemption to an organization pursuant to the provisions of Section 3(a) of the Act, that organization is exempt from filing annual reports.
- b) To obtain a religious exemption, an organization must file a completed registration statement, request an exemption and submit a religious exemption questionnaire in the form set forth in Appendix A, Illustration C of this Part.
- c) The Attorney General may require the organization to supply supplemental information as is necessary to determine its religious character.
- d) The Attorney General may issue either a blanket or an individual religious exemption.
- e) An individual religious exemption covers a single named religious group.
- f) A blanket religious exemption is issued to and upon the request of the central body of a church or denomination and covers the church and all of the affiliated agencies listed in the exemption request.
- g) Any religious organization with multiple subdivisions may request a blanket exemption.

- h) An application for a blanket religious exemption must be filed by the central governing authority of the church and shall contain the information required by Section 400.40(b) and also a list of the affiliated organizations and agencies which are directed and controlled by the central church.
- i) If, upon the filing of an application for religious exemption, the Attorney General determines that the organization is religious within the definition of Section 3(a) of the Act and that its purposes are actual and genuine, a religious exemption will be issued.
- j) Organizations receiving blanket exemptions shall periodically supply the Attorney General with current lists of their affiliates.

(Source: Amended at 24 Ill. Reg. 14684, effective September 21, 2000.)

Section 400.60 Annual Reports for Charitable Organizations

- a) To complete a proper annual report filing, all annual reports required under the Act must be filed on the form set forth in Appendix A, Illustration D of this Part and with the attachments prescribed by the form and this Section, signed by both the president of the organization or other authorized officer, and the chief fiscal officer, and with all required statutory fees paid prior to the due date.
- b) Each annual financial report is due within six months after the close of the organization's fiscal year. An organization may request a 60 day extension of the due date pursuant to Section 4(f) of the Act.
- c) Failure to file a complete annual report including all required attachments, along with payment of fees due prior to the due date, shall result in the organization being classified delinquent, and shall subject the organization to the payment of a late filing fee.
- d) On each annual report an organization must report separately all program costs associated with a joint cost fundraising appeal to the extent such was allocated to charitable program service expense and included on the annual report as charitable program service expense. The organization must maintain written records showing how the allocation was determined and the reasoning behind it.
- e) The form and attachments required for an organization's annual report is determined by the amount of its revenue and assets during the reporting fiscal period or whether it has used the services of a paid professional fund raiser as follows:
 - 1) Any organization which received contributions of more than \$150,000 in any reporting fiscal year or any organization which employed professional fund raisers

during any part of the fiscal year who raised contributions totaling more than \$25,000 during the organization's fiscal year must file:

- A) The Illinois Charitable Organization Annual Report form signed by the president and the treasurer and/or two trustees;
 - B) A copy of the Federal Internal Revenue return and/or report as required by the Internal Revenue Codes and incorporated attachments for the same period;
 - C) A financial report accompanied by financial statements and the certification of an independent certified public accountant. Certification must be in the form of an unqualified opinion letter;
 - D) All required statutory fees, including all late fees and re-registration fees; and
 - E) If the organization employs a professional fund raiser, the Illinois Fundraising Campaign form for each professional fundraising campaign conducted during the fiscal period in the form set forth in Appendix A, Illustration E of this Part.
- 2) Any organization with contributions more than \$25,000 but not in excess of \$150,000, or any organization which employed professional fund raisers who raised contributions of \$25,000 or less during the organization's fiscal year, need not file an independent certified public accountant's opinion but must submit all of the other items required and listed in subsection (e)(1) above.
- 3) Any organization which received contributions of more than \$15,000 but not in excess of \$25,000 during its fiscal year must file an annual report, but it may make a simplified filing by submitting:
- A) A financial statement using the Illinois Charitable Organization Annual Report form disclosing total receipts, total disbursements and assets on hand at the fiscal year end, accompanied by an attestation to the truth of the financial statement; and
 - B) All required statutory fees.
- 4) Certain organizations registered under the Act that are not required to file an annual report for a specific fiscal year under the Act, may be required to file under the Charitable Trust Act [760 ILCS 55].

- f) Charitable organizations which have made a consolidated registration pursuant to Section 2(g) of the Act shall include in their annual report such additional detailed financial information as will fairly represent the financial position of each of the affiliated groups.
- g) The Attorney General shall, upon written request, extend for 60 days the time for filing the annual financial report .
- h) If an organization is entitled to an additional extension for good cause by the Internal Revenue Service, which would extend its federal tax return or report due date to a date later than the Attorney General's due date, the organization may obtain an additional extension from the Attorney General coinciding with the same Internal Revenue Service due date. Extension requirements are:
 - 1) This extension request must be made prior to the due date for the Attorney General's annual financial reports and must include:
 - A) A written request for such additional extension;
 - B) A completed and signed Illinois Charitable Organization Annual Report form;
 - C) Financial statements, including a balance sheet and report of income and expenses for the subject period in final or interim form;
 - D) All required statutory fees; and
 - E) A copy of the application for extension of time filed with the Internal Revenue Service.
 - 2) The filing of all required reports must be done on or before the Internal Revenue Service extended filing date and shall include:
 - A) A copy of the approved Internal Revenue Service application for extension;
 - B) A copy of the Federal tax return or report; and
 - C) Audited financial statements if required by the Attorney General and not previously filed.
- i) Failure to file a timely and complete financial report will result in penalty fees and/or a fine

and subjects the organization's registration to cancellation.

- j) Upon cancellation the organization must cease operations.

(Source: Amended at 24 Ill. Reg. 14684, effective September 21, 2000)

Section 400.65 Mid-Year and Annual Reports for Professional Fund Raisers

- a) Mid-Year Reports:

- 1) Every registered professional fund raiser who takes possession or control of charitable funds directly, indirectly, by an agent, or as an escrowee shall file a full written accounting to the charitable organization of all funds it or its agents collected on behalf of the charitable organization during the six month period ending June 30 of each year, and file a copy of the accounting with the Attorney General by September 30 of each year.
- 2) The accounting shall be in writing and signed under oath on forms prescribed by the Attorney General as set forth in Appendix B, Illustrations D through G of this Part.

- b) Annual Reports:

- 1) Every registered professional fund raiser shall file a calendar year written financial report with the Attorney General. The report shall contain such information as the Attorney General may require, and shall use forms prescribed by him as set forth in Appendix B, Illustrations D through G of this Part. Separate financial reports for each fund raising campaign conducted shall be filed, together with the statutory report filing fee.
- 2) The required report shall be filed on or before April 30 of the following calendar year, signed and verified under penalty of perjury, together with the required statutory fees. The Attorney General will grant a 30 day extension of the due date pursuant to Section 6(d) of the Act if such extension is requested in writing prior to the due date.
- 3) The professional fund raiser shall provide a copy of the report to the charitable organization by the due date of the filing.

(Source: Amended at 24 Ill. Reg. 14684, effective September 21, 2000)

Section 400.70 Professional Fund Raiser Renewal

- a) The registration of all professional fund raisers expires on the next June 30 following their registration.
- b) A registered professional fund raiser who wishes to continue to act as professional fund raiser in Illinois must apply for renewal of its registration during June of the year in which his registration expires.
- c) To renew, a professional fund raiser must file a new, completed registration statement, an annual financial report as provided by the Attorney General, professional fund raiser bond which meets the requirements of Section 400.30(b)(3) for the period beginning July 1 and ending June 30 of the next year, and copies of active contracts and all required statutory fees.
- d) All Illinois professional fund raisers must file a copy of each professional fundraising contract prior to conducting a fundraising campaign.
- e) All charitable organizations and professional fund raisers shall retain copies of their professional fundraising contracts for three years following the completion of the contract.

(Source: Amended at 24 Ill. Reg. 14684, effective September 21, 2000)

Section 400.80 Professional Solicitor Renewal

- a) The registration of all professional solicitors shall expire on the next June 30th following their registration.
- b) A registered professional solicitor who intends to continue to act as a professional solicitor in Illinois must apply for renewal of its registration during June of the year in which its registration expires.
- c) To renew, a professional solicitor must file a new, completed registration statement.

(Source: Amended at 24 Ill. Reg. 14684, effective September 21, 2000)

Section 400.85 Professional Fundraising Consultant Renewal

- a) The initial registration of all professional fundraising consultants shall expire on the June 30 following two years of registration. Successive two year re-registration periods shall also expire on June 30.
- b) A registered professional fundraising consultant who intends to continue to act as a consultant in Illinois must apply for renewal of its registration during the month preceding

expiration of the two year registration period.

(Source: Amended at 24 Ill. Reg. 14684, effective September 21, 2000)

Section 400.90 Public Records

All registrations and reports filed with the Attorney General under the Act are public records and may be inspected in the office of the Attorney General during ordinary business hours.

(Source: Amended at 24 Ill. Reg. 14684, effective September 21, 2000)

Section 400.100 Registration Not an Endorsement

- a) Any representation made by a charitable organization, professional fund raiser, or professional solicitor in connection with its solicitation that it is registered or has otherwise complied with the Act, or that indicates the Attorney General endorses the organization, is unlawful, except as provided in Section 17 of the Solicitation For Charity Act [225 ILCS 460/17].
- b) The Attorney General may immediately cancel the registration of any person or organization violating Section 400.100(a). An affidavit from a person to whom such an illegal representation was made shall be sufficient to warrant an immediate cancellation.

(Source: Amended at 24 Ill. Reg. 14684, effective September 21, 2000)